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The Gavel

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THE GAVEL

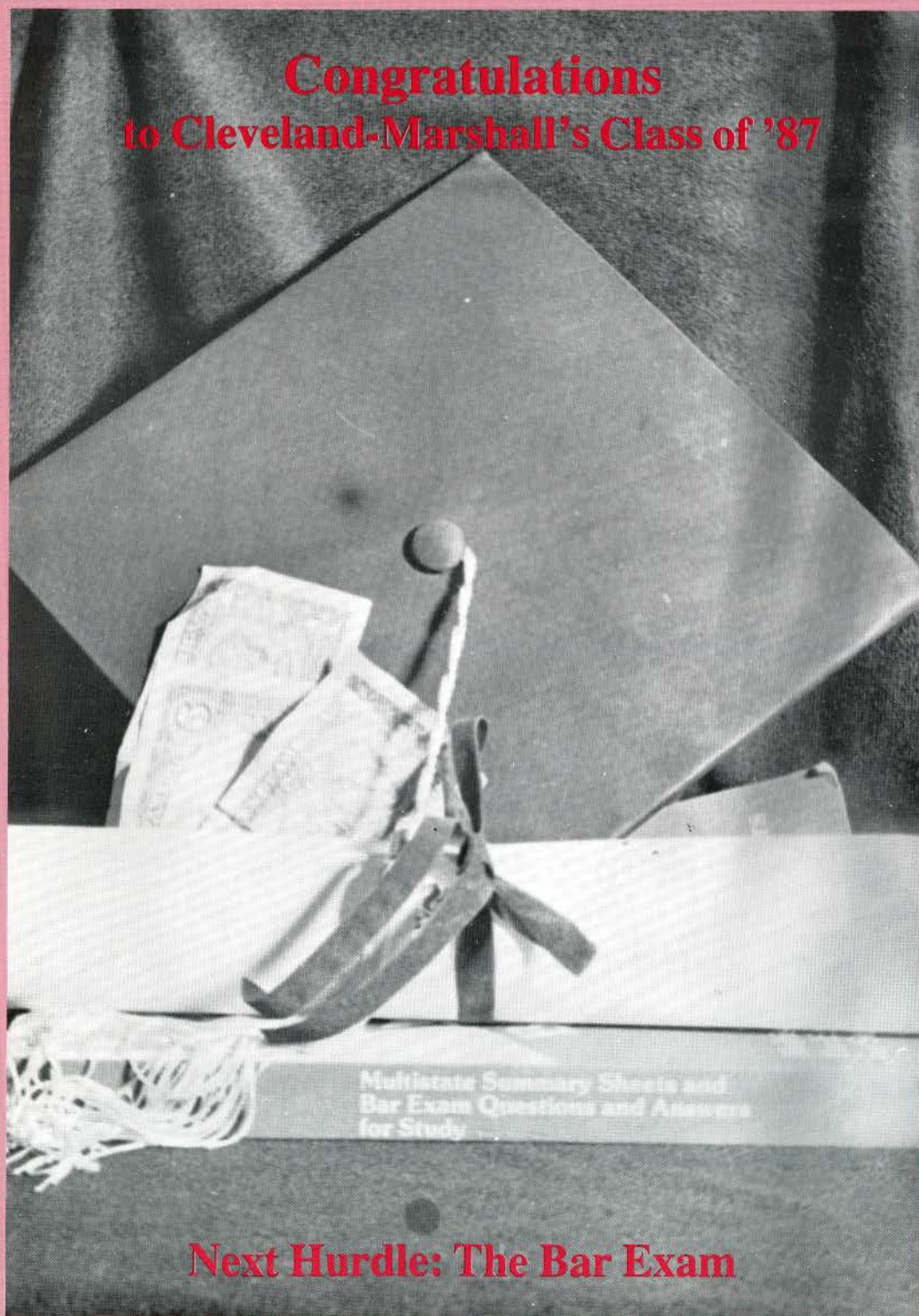
Cleveland-Marshall College of Law

Volume 35

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April, 1987

**Congratulations
to Cleveland-Marshall's Class of '87**



Next Hurdle: The Bar Exam

Editor's Note

Why is it that people voice complaints loud and clear and compliments are always few and far between? Lately, I've been hearing complaints from students who are not pleased with the organizations in the law school, yet ironically these students are not active within these organization. Sure, it is easy to complain, but why not get involved and help to better the organizations rather than just putting them down.

I've been involved with several C-M organizations and most problems they face concern lack of student participation. I would like to encourage students who are not pleased with the way things are being run to actively participate in change or betterment. It's one thing to have your name on a membership list, but it is another to get active and participate in the organization.

Incidentally, we are all "members" of SBA by being students of the law school - you don't have to be a senator or run for office to help out. People can help out by "showing up" to events, be it lectures or parties. If you want changes, there is no better person than YOU to make those changes. Organizations are always looking for people interested in "getting involved."

I saw a quip in a restaurant the other day that was very meaningful, it read: "There are three kinds of people: Those who make things happen, those who watch things happen, and those who wonder what happened." Which category do you fall under? I encourage you to make the difference for yourself in your next year of law school.

Now is the time to get active. Voice your opinion through your votes, and if none of the candidates match your opinions - run for the office yourself - be it SBA, fraternity or any other organization. You could even plan to get active with *The Gavel*, we serve as a voice of the student opinion. The only way an organization can function properly is through student participation.

Debbie Gibula

Debbie Gibula

P.S. I would like to wish everyone good luck on their final exams and best of luck to all of the 1987 graduates.



THE GAVEL

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SURROGATE MOTHERHOOD: CONTRACT OR FAMILY LAW?

There is something still puzzling about science and technology despite its giant leaps and major strides toward improving quality of life. It is neither cynical nor vulgar. Just a feeling of betrayal sometimes. Technology unmistakably delivers on its promises. However, it prefers to operate on the basis of trade offs and bargains. No unconditional giving. As we count our gains we come to realize they often come with untold or unanticipated problems. That uneasy feeling is best accentuated in the area of human reproductive technology. When first conceived Surrogate motherhood was heralded by many as the single opportunity to offer the blessing of parenthood to infertile couples. According to Black's Law Dictionary a surrogate is "one who has been elected in the place of another; a substitute; a person appointed to act for another." A surrogate mother is a woman who essentially rents her womb by bearing a child through arti-

ficial insemination for a fee. The child is immediately delivered to the 'parents' after birth. Surrogate mothers called the process a chance to 'share maternal joy' with childless couples. Parents using surrogates exalted the technology as offering them a 'final stand against the cruel and unyielding enemy: infertility.' But the happy event of parenthood can turn into family fights when the parties to such a contract refuse to perform. The New Jersey Superior Court in *Whitehead v. Stern* has become recently the theater where a drama unfolds between a surrogate mother who, 'overtaken' by the natural feelings of motherhood, has refused to give her child to the parents after delivery as stipulated in their contract. In a case most certainly bound for the Supreme Court, the Superior court has now the dilemma of choosing between the surrogate mother and the 'social father' as parents for the baby.

Background

The adage "it is a wise man who knows his child" has been rendered completely outdated by the recent advances made in human reproductive technology. Conceivably, five people can be involved in producing a baby, the would-be parents(2), the donor of the egg(1), the donor of the sperm(1) and the surrogate mother(1). Furthermore, the conception itself can take place in the wife's reproductive tract, the surrogate's reproductive tract or in vitro (test tube) in the laboratory.

Despite raising all kinds of questions, the demand for the new technology has been growing rapidly. It is estimated that there are more than 10,000 babies a year conceived by artificial insemination and there are at least 800 test tube babies. Specifically, 500 children have been born to surrogate mothers since 1976, with 65 of them in 1986 alone. The price tag on a surrogate contract ranges from \$5000 to \$20,000. It is with this background that the New Jersey court has approached the surrogate mother who has changed her mind and wants to keep her child and the father who has contracted with her to bear his child for \$20,000 and insists on performance.

Issues

The most pressing issue before the court is whether there was a binding and enforceable contract between the plaintiff-surrogate mother and the defendant-would be parent and who should have custody of the baby. But these are only basic questions. As the technology becomes more refined, it regenerates even more questions.

What happens if the would-be parents refuse to accept the baby? In a 1983 Michigan case, a surrogate mother gave birth to a child who was microcephalic and mentally retarded.

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Model U.N. Conference Held

By Lisa A. Long

Stouffers Inn on the Square was taken over by delegates from the United Nations . . . or at least students representing U.N. delegates. About 300 students from such schools as American University in Washington D.C., Touro University, College of Law in New York, University of Hartford, Emporia University in Kansas, Thiel College, Slippery Rock University, and many others joined together January 28 through February 1 to take place in the Eleventh Annual Cleveland National Model United Nations Conference (CNMUNC). The conference is sponsored by the International Law Society and other Cleveland area student organizations.

CNMUNC was formed in 1976, modeled after other such organizations and the United Nations Conference, to give students a chance to come together and represent various countries around the world. Each participating school is assigned cer-

tain countries, forming committees to deal with issues of current national importance. In these committees, the delegates debate and negotiate various prescribed issues trying to come up with resolutions that will be acceptable to the committee. Delegates not only debate while in session, but they negotiate the wording and content of these resolutions while caucusing. At the beginning and during the committee sessions, the delegates decide the order they wish to deal with the issues and whether to amend them to include other more pressing matters.

The delegates participate in one of six committees. *The Special Political Committee*, which is the main committee of the General Assembly, dealt with such issues as the Iran/Iraq problem, nuclear testing, the West Bank issue, and the arms race. *The Special Committee of Terrorism* dealt with state-sponsored terrorism, acts of terrorism
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Constitutional Interpretation: "The Original Understanding"

by Debbie Gibula

The C-M Visiting Scholars Program welcomed the Hon. Shirley S. Abrahamson, Justice of the Wisconsin Supreme Court. Students and faculty attended the Thirty-Eighth C-M Fund Lecture Thursday, February 19, in the Moot Court Room. Justice Abrahamson was one of three scholars that participated in the program. The others included Judge John T. Noonan, Jr. who is on the U.S. Court of Appeals for the Ninth Circuit. Judge Noonan came early in April and spoke on "The Religion Clauses: The American Experiment." Last semester Kent Greenawalt, Cardozo Professor of Jurisprudence at Columbia University of Law came to C-M and spoke on the topic of "Church-State Relations and Religious Convictions."

Justice Abrahamson's lecture was entitled "The Original Understanding" which is the jurisprudence of original intention that "serves to rally support for the philosophy of constitutional understanding." As an introduction to her lecture Justice Abrahamson noted that she liked returning to law schools because it is "here, as members of the profession, we acquired our original understanding of law in the system." We acquire this understanding by reading opinions of appellate courts and state supreme courts. And as a Supreme Court Judge, who writes these opinions, Abrahamson noted that she "cringes" when she thinks of her opinions being picked apart in law school classes.

Abrahamson's lecture offered insight into the debate over constitutional interpretation. "The founders launched the ship of state but over time we have drifted off course. The Constitution must adapt to the times; 'majestic phrases' [like due process and equal protection] must be given meaning to cope with the change." Justice Abrahamson stated that two views are a renewal of a debate that has been going on since the Constitution was ratified. At one end there is a subjective view - "words

are empty vessels where judges pour their passions and prejudices." Here, the Constitution is what judges say it is. At the other end there is an objective view - "even if words are empty vessels, it was the framers who poured in their passions and prejudices." This view supports the idea that the meaning of the Constitution is what the framers thought it was. She continued to explain that this "interpretive debate" affects state judges because they "wrestle with original understanding everytime they are asked to adjudicate disputes." She stated that underlying all judicial opinions is a continuous discourse about the nature of interpretation; and the role of the judiciary participates by examining and comparing the judicial interpretation of three distinct texts: common law, statutory law and constitutional law.

Abrahamson stated, the court, in a case by case method, is the author of the first text — common law. The original understanding is "the judge simply finds the pre-existing rule applicable to the case, throws off the wrappings and exposes the rule to public view." Today, judges are constrained and have less freedom than the legislature. She stated, "judges awareness is entrusted to the legislature who shapes the judges responses. Judges opinions are more limited in scope and they must interpret precedence fairly and reasonably." She noted

that the "common law judge realizes that fidelity to precedence is not simple ancestor worship; fidelity helps to satisfy demands of certainty, predictability, and fairness," She noted, however, that "the predictability of precedence acts as a constraint to the common law lawmaking of judges."

The second text — the statute — is authored by the legislature. Abrahamson stated that the judge gives affect to the original understanding of the legislature. In enacting statutes, the "legislature anticipates problems that may arise in the future, but all statutes have gaps and it is the judges role to fill in these gaps." The filling in of the gaps adds meaning, it does not add text to the statute.

Abrahamson stated that "understanding that judges cannot and will not write laws affects the way judges act, think and write opinions, and this continued on page 9



Wisconsin Supreme Court Justice Shirley Abrahamson speaks before C-M students last month in the Moot Court Room.

Surrogate Motherhood

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The would-be parents refused delivery having contemplated a "healthy baby" in the contract formation, while the surrogate mother was not interested in keeping a retarded child. What are the financial responsibilities of the parties after the baby is delivered to its social parents? Does the surrogate mother have any obligations to support the child and does the child have any claims on her estate?

In Chula Vista, Ca. a court has been wrestling with the question whether a surrogate mother is entitled to child support and joint custody. Many surrogate contracts contain severe health-habit clauses effectively restricting or prohibiting the mother's use of alcohol, non-prescription drug and cigarettes. A Texas court came close to deciding whether there was 'negligent fetal abuse' when a surrogate mother allegedly worked with dangerous chemicals during her pregnancy and indulged in overuse of alcohol and improper nutrition. So far surrogacy has been used by fertile men whose wives could not sustain pregnancy because of illness or operation.

Should surrogacy be made available to others who although fertile don't want to go through the normal process because of career ambitions or lifestyle or just want to spare themselves the inconveniences of pregnancy? The United States Supreme Court in *Roe v. Wade* legalized abortion. Can a surrogate mother abort the child she is bearing for someone else? If so, does she need the approval of the contracting father? How about the issue of privacy? Can the courts tell a woman what she can or cannot do with her body in reference to surrogacy? This issue seems earmarked for the US Supreme Court and may indirectly give the Rehnquist court another try at abortion.

The judgment of Solomon?

When Solomon had to decide who was the real mother over a baby dispute between two mothers claiming one baby he tested their maternal sense by pulling out his sword and threatening to cut the baby and give half to each one of them. As expected the real mother came out and re-

signed to give her child to the fake mother rather than have her baby killed. No legal test is available to the New Jersey court. In fact, there are no federal laws that cover the topic. No state has a statute dealing specifically with surrogacy. About a dozen states have been considering measures ranging from permission to outright ban. All fifty states have laws forbidding baby selling. There is a thin line — not always clearly demarcated — between baby selling and surrogacy. The former involves payment to a woman who gives up her child for adoption and is illegal. The payment in the latter is for bearing the child. The few state and local laws that remotely resemble the case at bar are outdated. The moral and emotional nature of the subject have colored them and transformed them into pockets of contradiction and illogicality. At best, they have an overtone of moralizing judgments rather than good law.

In 1954, an Illinois court held that artificial insemination by a donor was adulterous, even when the husband agreed to the procedure. The same result was reached in a New York court in 1963. Another New York court ruled the opposite in 1973. Now twenty five states including New York have statutes that recognize the legitimacy of babies conceived by artificial insemination provided that the

husband consented to the procedure.

There are only a handful of cases where the surrogate mother has decided to keep the child. They offer no guiding precedents since they were mostly settled out of court. In any case the New Jersey court may approach the case as one of breach of contract or as a custody battle. In the latter, the court will consider the best interests of the child and often awards custody to the mother. In the Chula Vista, Ca. case (*Munoz v. Haro*) the judge awarded visitation rights and a \$50-a-week child support to the surrogate mother. This case is different, for the surrogate mother has not refused to deliver the baby. It may indicate, however, that the court implicitly accepted the validity of the contract.

Public policy considerations are expected to weigh heavily in the court's decision. One argument is that surrogate motherhood threatens the invasion of one of the last refuges of human values: procreation. It breaks the link in the traditional trinity: marriage, sexual intercourse and the production of offsprings. "The last should always be a consequence of the first two" says one traditional philosopher. This argument may not hold since it does not reflect contemporary mores and values.

Another concern is the practice of surrogacy giving rise to an underclass
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National Model U.N. Conference Hosted

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by individuals, mercenaries and private armies, and air traffic terrorism. *The Commission of Human Rights* dealt with the rights of women, apartheid, human rights in Eastern Europe, and the rights of Indians in Central America.

After each of these three committees passed a resolution on how to handle each of these situations, the resolutions were sent to the General Assembly plenary for final action. The General Assembly, besides dealing with these resolutions, dealt with the foreign military presence in Central America, the rights of hostages and political prisoners, international arms sales, and securing the rights of individuals at international law. The General Assembly delegates draft resolutions on their specific issues which they work to pass.

The International Court of Justice (ICJ) hears cases presented before it by advocates knowledgeable in the facts and background of the case. The issues dealt with in this session were the Falkland/Malvinas territorial dispute (Argentina v. UK), the Shatt al-Arab waterway dispute (Iraq v. Iran), a petition for return of gold allegedly illegally seized in 1944 (Albania v. UK) and request for an opinion dealing with the U.N. Charter.

The Security Council, the main peace keeping organization of the U.N., decides on the issues to be dealt with at the beginning of the conference, but they can change the agenda at any time throughout. The Security Council began by dealing with the Iran/Iraq dispute and South Africa and Apartheid. The Council then moved into an emergency session to deal with a situation that was made up by the Chairman. The delegates treat the situation as if it were really happening, and had been becoming a growing problem during the conference (this year's issue dealt with a dispute of the Yugoslavian/Albanian border that turned into a war of international proportion).

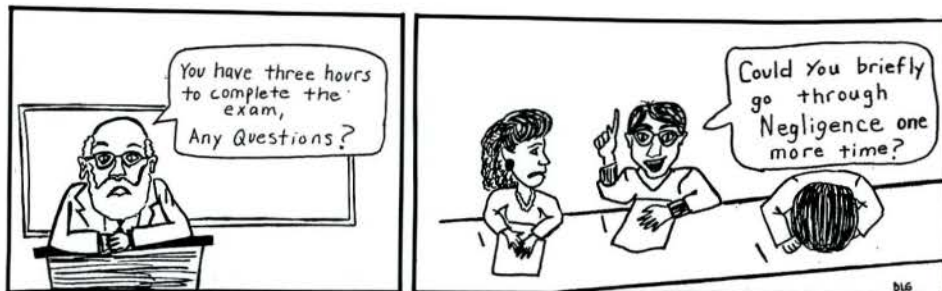
At the end of the conference, awards were given for Best Delegate Overall and Best Delegation Overall. The individual committee gave

awards for the first Among Equals and for Outstanding Achievers. The ICJ gave awards for the Best Advocate and for the Best Justice. It was agreed by all who attended that all did an outstanding job.

When not in session, the delegates were fortunate to have three very interesting and highly entertaining speakers. Admiral Stanfield Turner, the former Director of the CIA, gave his opinions on terrorism. The Ambassador of Nicaragua to the United States of America spoke of U.S./Nicaraguan relations. Dick Gregory, the author, activist, human rights crusader and humorist was the third speaker. Mr. Gregory entertained the delegates with stories of his own life

and his ideas on the world today.

The feeling during the conference was electric. Delegates were well prepared to deal with their issues and all felt that the conference went excellently. They expressed their reasons for participating as not only learning and practicing negotiating, speaking, and problem-solving, but also meeting people from all over the country. While dealing with delegates in the conference, friendships were formed that were strengthened outside of the negotiations. promises were exchanged to meet again at next year's CNMUNC. One delegate after saying he planned to return to the Twelfth CNMUNC said he would because "we love it and we learn."



Surrogate Motherhood

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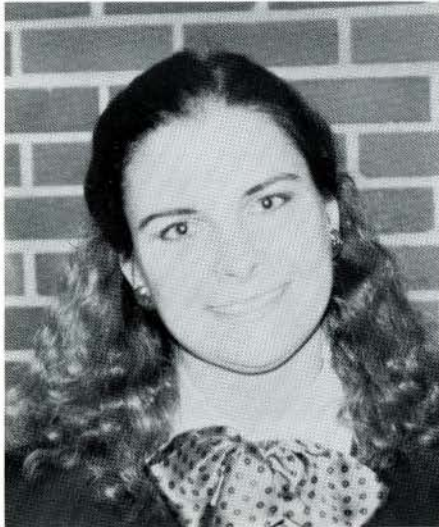
of "professional breeders" where poor women rent their wombs to bear children for affluent couples. The New Jersey case typifies the problem: the surrogate mother is a housewife and the would-parents are a biochemist and a pediatrician. Another case involves a housewife as the surrogate mother and a husband truck driver who contracted with a Yale-educated lawyer and his advertising-executive wife. That is why it has been suggested that for now at least all future surrogate contracts be subject to the scrutiny and approval of the courts to avoid possible exploitation.

Technology only does what it is supposed to do: presenting to us an alternative or a new way to old or established ways of doing things. Whether it is efficient or morally acceptable is an issue that society must grapple with. Reaching the moon and returning remains one of the most impressive technological achievements of this century. Whether space tech-

nology should be used to better quality of life on earth, improve satellite communications, predict weather conditions or build an arsenal of sophisticated weapons is exactly the kind of answer technology does not purport to give.

Similarly, surrogate motherhood offers an alternative to infertile couples and others. Whether society accepts it will be an expression of its appreciation of or disappointment with current societal values. As the practice multiplies across the states, there will be strong pressure for authorities to intervene and legislate. A rush into making final decisions may either deprive an opportunity of parenthood to a growing minorities of childless couples or stifle the growth of an important area of science. There is no easy answer. For technology moves by leaps and bounds and human values change by infinitesimal increments . . . and always lag.

Your Student Bar Association Elections: April 15th & 16th



Cindy Hackbirth

Candidate for President

My name is Cindy Hackbirth and I am a candidate for the office of S.B.A. President. I am a second year student and currently hold the office of secretary of Delta Theta Phi Law Fraternity. As an active participant in Delta Theta Phi, I have helped to organize and coordinate student programs, both educational and social. This experience coupled with part-time employment has given me key insights into various student needs.

I feel that S.B.A. has the potential to meet some of these needs. First, I recognize the need for better communication channels between you, the student, and your Student Bar Association. One of the roles of the President is that of a liaison between you and the administration. I am prepared to develop and implement a program which gives you a stronger voice. Next, I will strive to achieve neutrality among the various student organizations. Finally, I am an organized and efficient administrator.

My experience in business and other student leadership positions that I have held make me well prepared to serve you. I am enthusiastic, dedicated, and confident that I will be an effective leader for our Student Bar Association. I appreciate your support in the upcoming election.



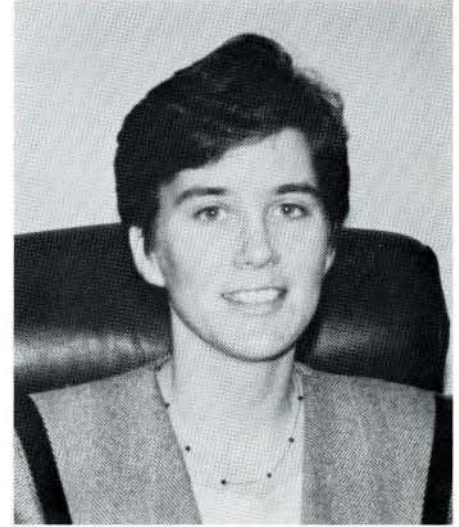
David Bickoff

Candidate for President

My name is David Bickoff. This July I will be thirty-eight years old. As a current S.B.A. senator, I bring fifteen years of experience in the real world to the Student Bar Association of Cleveland-Marshall College of Law. I have owned and managed several of my own businesses as well as having worked with the Cleveland Area Arts Council and the New Organization for the Visual Arts.

When Elected to the office of President of SBA, I will do all that I can to get Coca-Cola machines to replace the Pepsi machines, try to have all the typewriters in working condition all the time, and attempt a Constitutional Amendment that would create a second vice-president who would be elected by the night students, as their voice. A lot of you know me, and most of you have seen me around this year.

If you don't know who I am, ask someone or come up and talk to me the next time you see me. I need your support to win this election. I hope that you will support me. I will always be available to you. So, get out there and vote for David Bickoff for President of the SBA.



Jane S. Flaherty

Candidate for President

As a graduate of CSU, a member of the Student Affairs Committee, a first year Senator, and your present S.B.A. Secretary, I possess a great deal of knowledge about the resources and procedures of the main campus and this law school. I know how student government works at CSU. I've seen it. More importantly, I have been deeply involved in it. I have worked closely for the students on numerous faculty committees, I have worked with the administration and many S.B.A. committees to prepare for many events.

This experience has made me realistic about what this school can achieve both for the students while we're here and for our reputation in the community. I'm realistic and hopeful. I believe that working with an active Senate and three strong, hardworking officers, next year we can make this school work for the students, and plan events which will make the year enjoyable.

Please think carefully about all the candidates for each office before you vote. A position as officer has its prestige and accompanying responsibilities. I believe I am the person best qualified to take on the responsibilities of S.B.A. President for the upcoming year. If you agree, I'd appreciate your support in the election and throughout the next school year.

THE GAVEL

SBA Elections: April 15th & 16th



Kathleen Donnelly
Candidate for Vice-President

My name is Kathleen Donnelly and I am a third year evening student running for the office of S.B.A. Vice-President. I am currently a S.B.A. Senator, President of the Women's Law Caucus, and Vice-Dean of Delta Theta Phi Law

Fraternity. During the past two years I have been involved with the S.B.A. by serving on various faculty and student committees.

I believe that the students (both evening and day) need to have some voice in what goes on at this law school. I also feel that they have a need to be better informed on what goes on in the S.B.A. meetings. I would like to see S.B.A. meetings open to the student body and a representative from *The Gavel* reporting on these meetings.

The S.B.A. should have more programs that are not of an entirely social nature. The S.B.A. should sponsor placement programs for students interested in the small practice or even beginning a practice. I also believe that the S.B.A. should work closely with the Cleveland Bar Association to provide guest lecturers and help our students.

If I am elected, I will serve the students to the best of my ability. Thank you for your support.



John Pallone
Candidate for Treasurer

My name is John Pallone and I am a second year student running for the office of S.B.A. Treasurer. I am currently an S.B.A. Senator as well as the Master of the Ritual of Delta Theta Phi Law Fraternity. Prior to attending Law School, I had two years practical experience in the field of accounting and financial management, including purchasing, price control, accounts receivable and accounts payable.

As an S.B.A. Senator, I have had the opportunity to serve and represent you on several faculty and student committees. My experience on these committees has given me great insight into your needs and the future development of Cleveland-Marshall College of Law.

I feel that I have the knowledge and ability to serve as an efficient treasurer. My experience, along with dedication, will benefit the Student Bar Association and you, the entire student body.

Your support in the upcoming election will be greatly appreciated.

Please Vote!

All candidates were given equal opportunity to submit statements of candidacy to *The Gavel*. The statements appearing here were those received by the deadline.

Quote Corner



"Animals are such agreeable friends - they ask no questions, they pass no criticisms."
George Eliot

"Manners are especially in need of the plain. The pretty can get away with anything."
Evelyn Waugh

"Of all our faults, the one that we excuse most easily is idleness."
La Rochefoucauld

"Everybody has a right to pronounce foreign names as he chooses."
Winston Churchill

"Sometimes it is more important to discover what you cannot do, than what you can do."
Lin Yutang

"A bureaucrat is a Democrat who holds some office a Republican wants."
Alben W. Barkley

"Superstition is a religion of feeble minds."
Edmund Burke

"Yes, we did produce a near perfect Republic. But will they keep it, or will they, in the enjoyment of plenty, lose the memory of freedom. Material abundance without character is the surest way to destruction."
Thomas Jefferson

"The Original Understanding"

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understanding narrows the range of alternatives that the judge feels are open to her."

The generally accepted theory of statutory interpretation is that the "judge will extrapolate the answer that the rational legislature would have given had the legislature answered the question proposed." She said that "the judges put on legislative garb and plays 'let's pretend' we're a rational legislature." The judge is looking for the objective, or purpose of the legislature . . . "what mischief was the legislature addressing and how was it to be remedied." She noted that some commentators assert that the court should function "as it truly is — a political body that has made compromises." These commentators assert that "courts should interpret the statute to enforce the compromise, the compromise made between the legislature and the interest groups" (whatever these interests groups may be).

Other commentators "urge that courts not always engage in the archeological expedition of legislative intent, but should look at statutes as it develops over time and the case law interpreting a statute and a statute in terms of current social conditions." This view, she stated, is called the dynamic view of statutory interpretation.

A third commentator, Dean Calabrese of Yale, proposed a dramatic interpretation that would "give

power to the courts to overrule obsolete statutes just as they overrule common law decisions." He defends his position by arguing that courts are principled, rational decisionmakers writing within a whole fabric of law. Abrahamson pointed out that although judges are interested by this proposal they resist it because it disturbs the appropriate balance of freedom and constraint in statutory interpretation.

Judge Abrahamson suggested that this third proposal "strengthens the discourse concerning statutory interpretation because it challenges the original understanding of the democratic processes of the judicial role."

The third text — the Constitution — is co-authored by framers and ratifiers (the true authors supposedly being the people). The aim of the Constitution was to provide a framework which attempted to anticipate the very distant future. Here, she states, Constitutional interpreters are particularly constrained so as to avoid appearing like they are giving courts the final word over other branches. She noted that the dilemma comes about because the language is broad and courts have more room for interpretation, but if "a court indulges too expansively it usurps power of the people and legislative role as primary policymakers in government." Here, the interpretation involves understanding the words within the Supreme Courts opinions when inter-

preting the Constitution. So, she stated, with statutory interpretation "I stand back and say let's pretend I'm a rational legislator" and with constitutional interpretation "I say let's pretend I'm the Supremes."

Justice Abrahamson concluded by pointing out that each text has underlying similarities and each text is implicated in the interpretation of the other, "judicial interpretations are en-crusted in words of statutes and the Constitution affects statutory interpretation." She also stated that "if some conventions of statutory or constitutional interpretation are adopted, the adjudication involving statutes and the Constitution will get to look more and more like common law adjudication and this carries with it the concept that the judiciary can advance and develop the law." Common law adjudication means a broader view than statutory and constitutional.

Finally, Justice Abrahamson said that "the judges interpretation lies somewhere between radical indeterminacy and radical literalism" and when a judge takes the middle ground, like she does, then they "run the risk of getting hit by both sides." She gives two warnings regarding judges. First, "be distrustful of the judge who says 'I am free,'" judges are restricted by the whole fabric of law "because they must engage in a discourse within themselves and their fellow judges; then, when an opinion is released that discourse goes out into the public and scholars, lawyers, legislators and media participate in that debate." She also warns to be distrustful of the judge who says "I am absolutely constrained by text or history or intent." She states that in many instances these factors "are constraining but the judge who uses that is using it to hide and mask the discretion."

The very word 'judge' means judgment, balance, and consideration. "Judges are not computers and it is a good thing because when they are absolutely needed they would not be able to operate — because that is when computers break down."

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Alumni Profile: Mary Strassmeyer

by Lynn Howell

What would prompt a successful feature columnist and society editor for a major newspaper to complicate her life by going to law school? Cleveland-Marshall alumna Mary Strassmeyer was looking for a challenge in her life in the spring of 1976. In April of that year she and a friend registered for the May LSAT examination. Although Mary lost her friend as a casualty of the dreaded LSAT, she gathered enough courage to apply for admission.

In the fall of 1976 Mary began what would become a seven year path to her juris doctorate degree. Persistence paid off, and in August of 1981 she completed her self-imposed challenge. Although she could not announce her victory in her column, her colleagues at the *Plain Dealer* took up a collection to pay for a display advertisement to announce Mary's victory to the world.

"It is so easy to say 'I am quitting after this quarter,' especially for the non-traditional students, and that more support from the student's family, classmates and professors is needed," stated Strassmeyer as she reflected on her law school days. She also noted that the fears and additional stress placed on older students who are returning to the classroom after extended periods of time adds to the lurking temptation to drop out and return to their chosen career.

The idea of going to law school was not merely a mid-spring whim of Mary's in 1976, rather it was the fulfillment of a long time curiosity and fascination with the law. Her curiosity about the law was enhanced by the Ohio State Aptitude Tests given to students. Her tests reflected interests and skills for the fields of journalism and law. Objectively looking at the two fields, many of the same skills are utilized such as research, interviewing and writing.

In the beginning of her law school career she intended to change careers upon graduation, but as time went on she knew she had chosen the right career for herself. But, she noted, "it's nice to have the option of changing careers." Since it is highly unlikely that Mary will ever truly "retire" she has come to view law as her retirement career.

In April of 1987 Mary will celebrate her tenth anniversary as the author of the "Today" column which evolved into the "Mary, Mary" column in the early 1980s. Initially, her column, which covers the "movers and the shakers" of the Cleveland area, was placed on the news page but has since moved to the feature pages. With her "Rocks and Roses" segments, she takes on a role which can be analogized to that of the Queen of England. Since she is the lone "gossip columnist" left in Cleveland she can choose

to either socially recognize or not recognize any one or any group seeking her attention.

Although law school did not change her current career, she notes that it has reshaped the way she views her own job. The publishing world has become intensely aware of libel suits. The *Plain Dealer* has brought First Amendment specialist to speak to the reporting staffs about the current changes in the law.

Since society has changed, so has the job of the person reporting the follies of man. "In the beginning you could trust tips from people more, but today more people are 'out to get' someone so they tend to give you false information," stated Strassmeyer. Thus, with the training she gained in law school as well as many new friends she has found more reliable sources to check the tips she receives. For example, she will not publish news about someone seeking a divorce until it appears in the *Daily Legal News*.

Legal Beagles do not despair, Mary has not forsaken her second career totally, besides helping family and friends with problems such as wills and powers of attorney, she is currently a member of the Cleveland Bar Association. She serves as the coordinator for the media task force of the Bicentennial of the Constitution Committee.

A Little Perspective

by Jane Sara Flaherty

You've heard it all before, the "I can top that" or "Oh yeah, well I heard . . ." stories. You're telling a funny story, but someone has a funnier one. You're complaining about all the work you have to do, but somebody has more.

Sometimes these stories are just something to talk about, to share, to get a mental and emotional release from law school and its pressures. But sometimes these "I can top that" stories are irritating, especially when you just need somebody to listen.

Just for a moment, put aside your thoughts of the Note you've hope-

fully completed for Law Review or the Journal of Law & Health, of the briefs you have due and their oral arguments (yes, even the grueling elimination rounds for Moot Court), and thoughts of your demanding job.

Think instead of all the "behind-the-scenes" people. The "somebody" who made an event at this school run smoothly. You're asking what the heck runs smoothly around here? The coffee hours, luncheons, and receptions for our visiting scholars; the champagne reception for the Annual Awards Banquet; the dish for the tax seminars (I didn't even know we had a satellite dish!).

Sandy Natran, the Liaison for External Affairs for C-M, takes care of all these things. But closer to home, Sandy is responsible for the time sheets of work-study students to make sure they get paid. She also organizes every possible aspect of Graduation from the photographer and extra tickets to making sure the students have their gowns and are lined up properly for the procession.

For the last five weeks Sandy has had a more important job. She and her husband have been at the bedside of their 20 year old son Michael. What was thought to be a simple ear infection by the Notre Dame College

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Faculty Fairytale

by Sandra Kowiako

The characters in this story are purely fictional and any resemblance to persons alive or teaching is purely coincidental.

BENJAMIN lived in **GENEVA**, Switzerland. He had a very **MOODY** son whose temperament was so poor because he had been deprived of **KERBER** baby food as a youngster. One day the son said, "Dad, you've been **STREIBING** for success in this **LANDEVER** since I can remember. Why don't you leave this country and seek your fortune elsewhere?"

"I **WILSON**," Ben answered. "Since I'm not getting anywhere I'm **inKLEINed** to venture to America." So Ben packed his **GILLETTE** razors and his **GUTTENBERG** Bible and set off on his journey. Before heading for American he stopped off in Rome to see the **POPE**. He admired the **STEINGLASS** windows in St. Peter's Basilica.

After his visit in Rome, Ben went to London where he saw the changing of the **GARD**. He stopped at a local restaurant known for its **FLAIR AT TEA** and crumpets. Then he boarded a ship and set sail for the New World. He was surprised to see **CATZ sCUR-**

RYING all around the lower decks, but he was pleased that his cabin was on a **FINER** level which did not permit pets. Since he had never been a **SIEMAN** before, Ben had the **WIL-LEYS** about being on a boat. So he took a **tranquiLEISER** and felt **RE-HMARKably** more relaxed.

The weather started getting rough and Ben thought, "What a **GaEL, MAN!**" He rushed out to the bridge to help out as best as he could.

"**S'TABAC!**," the captain shouted. Embarrassed from being reprimanded, Ben turned ten shades of **ROSENFELD** down the steps! He hit his head pretty hard, but no one came to help him. The crew and passengers **WERBER-SIERK!** One lady, attempting to stay **DRY**, **FUSSED** with her umbrella and poked Ben in the ribs. Ben, feeling alone and deserted, looked forlornly down at his feet and realized the fall had caused the **BUCKLEY** on his left shoe to be **TORAN** off. He thought it best that he go back to his cabin. So he did that. He made himself comfortable on his cot and popped his favorite Guy **LOMBARDI** cassette into his Walkman. He fell into a deep sleep and stayed that way until the voyage was nearly over. A few days later he was awakened by the sound of the captain yelling to the crew, "**LANDS-MEN!**"

Ben looked out the porthole window and thought, "**Land-o-GOSHIE!** You couldn't **PICKER** more beautiful day to land." The sun was shining, the sea was **KAULm**. On that particular **DAVISability** was perfect. He wondered if **LAZARUS** had it so good when he was **MURRAYcu-**lously raised from the dead.

The ship was docked and Ben realized how hungry he was. All he could think about was a **BOGOLMONY** sandwich. So he began to walk through the town in search of food. He came upon a deli and went inside and ordered a **RUBEN** with a side of **SNYDER** potato chips. Now he was ready to discover America and make his fortune.

He decided to head for Cleveland because he heard the **BROWNEs** were superstars. Before he got too far, though, he stopped for a big **MAK** in **DEE CEE**. At last, after finishing his **McD** soft serve ice cream **COHEN**, he

was ready to leave the hectic Capital city and move along on his travels.

On his way to Cleveland Ben met up with a **BAKER** who befriended him. Little did he know, but the baker was wanted by the police because he **KELLED** a **MAN**. Well, Ben and the baker appeared to be enjoying their walk through the country when suddenly, from out of the blue, a squad of police arrived. One yelled, "We'll **SHETTEL** up with you now, you half-baked bread maker!" and fired **BLANKs** at the baker. The baker turned **WHITE** from fright and grabbed the hand of famous **FRAN** who was standing nearby, and held her hostage in a **KORNHOUSER**.

Ben did not know the difference between a silo and a barn, and when the police asked where Fran was, Ben yelled, "The man in the **BARNHI-ZER!**"

"**HENDER** over, **SON**," the police yelled to the baker, but the baker calmly lit a **ciGAR** and **LOCKed** the door to his makeshift **FORTE**. Fran became frantic and began to open up and **DEMP SEYd** bags onto the baker. When the baker was covered with seed from head to toe, Fran recognized her opportunity to escape. She emerged from the building and ran directly into the protective arms of her uncle the policeman. The policeman hugged his **NISSENBAUMed** the silo. Everyone in the crowd cheered and expressed their gratitude in that they now had one less madman to worry about.

The people gathered around to watch the silo burn to the ground, and after the excitement died down Ben gazed admiringly at Fran as if he was seeing her for the first time. He felt his heart thump as he whispered to himself, "**OLIVER.**" When their eyes met, Fran and Ben instantly fell in **LOVE**. **ITT** didn't take long for them to decide to spend the rest of their lives together. After supping on **WINE**, **BERGers** and fries, the pair gathered their belongings and headed toward the Erie shore. They settled in Cleveland where Fran opened up a coffee shop and Ben enrolled in, you guessed it, The Cleveland-Marshall College of Law.

And they both lived happily ever after. . .

Perspective

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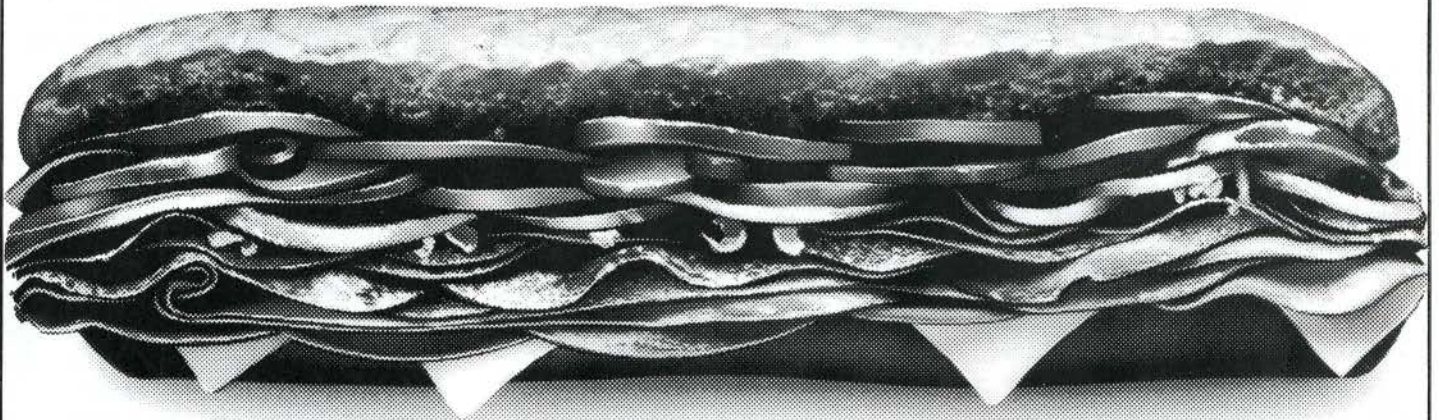
Health Clinic, was a rare viral infection which has left Michael paralyzed. He was taken by ambulance from Notre Dame to the intensive care unit at Mt. Sinai Hospital. Recovery is expected to include at least a year of physical therapy.

This sure makes the stresses of law school seem pretty insignificant. Sandy has always worked with the S.B.A. to help make student life here a little easier. The S.B.A. would like to help her in any way we can, even if it's just to let her know she's in our thoughts. There will be a container at Fran's designated for cards or contributions for the Natran family.

Our thoughts are also with Professor Weinberg who is recovering from surgery early this semester. Best wishes to you!

LCOP students wish to extend their sympathy at the passing away of fellow law student LaTanya Livingston.

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